



FYI Sales 59

Vending Machines

GENERAL INFORMATION

This publication is for owners, lessors, lessees and operators of vending machines who collect revenue from vending machines. It addresses vendor licensing, filing and payment of sales tax for items sold from vending machines. [§39-26-714, C.R.S.]

Any person or company who removes the receipts from vending machines is liable for remitting the applicable sales taxes on the vending machine revenues. If a person or company only receives a fixed fee or a percentage of receipts from a vending machine, and has no access to the machine, such person or company is not liable for remitting sales tax. Typically, the owner or lessor of a machine periodically replenishes the machine and remits the money. However, in some cases a lessee or operator stocks the machine and removes the money, which would require that the lessee or non-owner operator be liable for remittance of the sales tax. Colorado sales tax, state-collected local sales tax, and Regional Transportation District/Scientific and Cultural Facilities District/Metropolitan Football Stadium District (RTD/CD/FD), and Rural Transportation Authority (RTA) taxes are remitted to the Colorado Department of Revenue.

If a business has vending machines in home-rule jurisdictions, they must contact such jurisdictions directly for information on direct payment of any local sales taxes. Find sales tax rates for any local jurisdiction online on the Web site at www.TaxColorado.com or see publication Colorado Sales/Use Tax Rates (DR 1002).

DEFINITION

A vending machine is a money-operated (coins or bills) machine offering tangible personal property to a consumer. This definition does not include such things as video games, pinball machines, pool tables or other money-operated machines which do not dispense tangible personal property. Machines with claws that players use to pick up toys/prizes require tax to be paid at the time merchandise is purchased for use in the machine, rather than collecting the tax on machine's gross receipts.

LICENSING

Owners, operators, lessors and lessees of vending machines who have control of the receipts must obtain a Colorado sales tax license. To get this license, complete a Sales Tax/Wage Withholding Account Application (CR 0100) available on the Web site www.TaxColorado.com. A two-year sales tax license is \$16, prorated in six-month increments. Also, \$50 deposit is required to be paid, which will be refunded after at least \$50 in state sales tax has been remitted to the Department of Revenue.

Allow four to six weeks to receive a license in the mail. Apply for a license in person at one of the Taxpayer Service Division Centers and a license number will be issued immediately. The actual license will then be sent to within two weeks.

If a business plans to have machines in more than one location, the sales tax license fee will apply to the first or principal location **and** to all of the business locations. Only one license is required for all of the locations. Submit the application and fee(s) to any Taxpayer Service Division Center or mail the application and fee to the Colorado Department of Revenue, Denver, CO 80261-0013.

IDENTIFICATION DECALS

At the time a business obtains their sales tax license, they are required to purchase identification decals for their machine(s). Each decal costs 10 cents, and each vending machine must have a decal. [§39-26-714 C.R.S.].

Exception: Decals are not required on copiers. To obtain the decals, complete a Request for Vending Machine Decals (DR 0235). This form is also available on the Web site www.TaxColorado.com

The decal should be placed on the front or side of the machine and should **always** be visible and accessible. The sticker makes it possible for Department of Revenue agents to identify the owner of the vending machine.

FOOD

All sales and purchases of food as defined in Section 39-26-102(4.5), by and through vending machines shall be exempt from Colorado state sales tax. "Food" means food for domestic home consumption as defined in 7 U.S.C. sec. 2012(g), as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. sec 2012(h), as amended. However, the following items are not considered food and would therefore be taxable:

- Carbonated water marketed in containers
- Soft drinks
- Chewing gum
- Candy
- Prepared salads
- Packaged and unpackaged cold sandwiches
- Hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated food and snack devices.

It is the owners, lessors, lessees and operators' responsibility to keep record of taxable food items sold and remit the appropriate sales tax.

This exemption applies to state sales tax only. Cities, counties, RTD/CD/FD, and RTA have the option of taxing food sold through vending machines. However, if they exempt food sold through vending machines from sales tax, they must use the same criteria as the state in determining which items are taxable and which are exempt. To find out whether a governmental entity (counties and statutory cities) allows an exemption from local tax on food sold through vending machines, refer to publication Colorado Sales/Use Taxes (DR 1002). Contact home-rule cities directly to find out if they exempt food sold through vending machines from sales tax.

TAXABILITY OF ITEMS

Taxable items selling for 15 cents or less are exempt from sales tax. If the item vends for more than 15 cents, a business may not calculate the sales tax they remit by subtracting the first 15 cents from the items they sell. For example, if the tax rate is 6%, a \$1.00 item includes a gross sale of 94 cents and a tax of six cents ($\$1.00 \div \text{by } 1.06 = 94 \text{ cents}$; $.94 \times .06 = 6 \text{ cents}$).

REPORTING AND PAYING TAX

File a Retail Sales Tax Return (DR 0100) to report sales tax collections from vending machines. Businesses are required to file returns each month except when their total sales tax liability is under \$300 a month **AND** they have made a prior arrangement with the department to file quarterly. If their sales tax liability is under \$15 per month **AND** they have prior approval from the Department of Revenue, they may file annually.

All entries of state and local taxes on the sales tax return must be rounded to the nearest dollar.

Remit to the Department of Revenue the amount of state sales tax, state-collected local sales tax, RTD/CD/FD and RTA tax collected for the period. Vendors may claim a service fee deduction on the amount of state sales tax collected for each local jurisdiction in which a business has vending machines, and a service fee for the amount of RTD/CD/FD and RTA tax collected for each jurisdiction inside the RTD/CD/FD and RTA boundaries. Additionally, some cities and counties allow taxpayers to claim a service fee on the amount of tax collected. See publication Colorado Sales/Use Tax Rates (DR 1002) for the service fee rates for cities and counties. The service fee may not be claimed if the taxpayer files late.

SERVICE FEES

Effective for all Colorado sales and use tax returns filed on or after July 1, 2009 the state service fee (vendor's fee) is reduced to zero and is no longer available to businesses. As a result, the service fee for collecting the 2.9% state sales tax and retailers use tax cannot be taken on either the Colorado Retail Sales Tax Return (DR 0100) or the Retailer's Use Tax Return (DR 0173). This applies to all businesses regardless of their filing status.

Under the new law, the zero service fee will remain in effect until June 30, 2011. If the September 2010 economic forecast is optimistic, the legislature could choose to resume the service fee January 1, 2011. The fee is eliminated for the remainder of 2009 and all of 2010. Please note that this applies to the 2.9% state sales tax rate only – it does not apply to state-collected city/county or special district taxes.

REPORTING SALES TAXES COLLECTED AT MULTIPLE LOCATIONS

When applying for a vending machine sales tax license, the local jurisdiction in which the first machine(s) are placed will be the **principal location**. If placing machines in other local jurisdictions, submit a list of the cities/counties in which the machines are located and the list must include the tax rates for those local jurisdictions. These will be additional **locations**. This list must be attached to the DR 0100 "Retail Sales Tax Return."

HOW TO CALCULATE GROSS SALES

For the example cited, if a business's total vending machine collections in Idaho Springs were \$500, the computation would be as follows (based on tax rates in effect on the publishing date of this FYI): Colorado sales tax is 2.9%, Clear Creek County sales tax is 1%, and the Idaho Springs sales tax is 3%, for a total of 6.9%. $\$500 \div 1.069 = \467.73

Therefore, gross sales for this local jurisdiction, not including tax, would be \$467.73. Place \$468.00 on line 1 of the DR 0100. If a business has vending machines in more than one local taxing jurisdiction, compute the taxable sales in this manner for each locality.

EXEMPTION FROM TAX LIENS

A business may apply for tax lien protection only if they lease vending machines that they own to someone else who collects the revenue from them. The lessor must not give the lessee any right of ownership to the machine(s). If the lessee has part or full ownership of the machine(s), the vending machine(s) will not be exempt from tax liens on the lessee's property. [Colorado Revised Statutes 39-26-117 (1) (b.5) and 39-22-604 (7) (c.5)]

The lessor may qualify for the lien exemption in any one of three ways:

- File a copy of the lease with the county clerk in the county where the property is located.
- File a Memorandum of Lease (DR 6514) with the Department of Revenue, Tax Auditing and Compliance Division describing the vending machines by serial number.
- Within ten days of seizure of the property by the Department of Revenue, notify the Tax Auditing and Compliance Division of the existence of a lease, and provide a copy of it.

In all cases, the lease must list the tangible personal property in such a way as to be identifiable to department investigators.

A business must also mark their vending machines using numbers or other identification marks. A business may choose their own numbering or marking system, but the numbers or marks used on each machine must correspond to the list of vending machines sent to the Department of Revenue. The numbers or marks should be in an accessible location on the vending machine(s) so that Department of Revenue agents can clearly identify the machine(s) as being protected from tax liens. These numbers or marks are different from the vending machine decals which must be purchased for machines.

Send the list, a form DR 6514 and the listing of serial numbers and identification marks, plus a \$2.50 filing fee made payable to the Colorado Department of Revenue to:

Colorado Department of Revenue,
Tax Auditing and Compliance Division
Attention: Memo of Lease
1375 Sherman St., Room 504
Denver, Colorado 80261

NOTE: Do not send the Sales Tax/Wage Withholding Account Application (CR 0100) or the Vending Machine Decal Application (DR 0235) to the Tax Auditing and Compliance Division.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.